

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

### **Introduced**

## **Senate Bill 181**

**FISCAL  
NOTE**

BY SENATORS WOODRUM, BALDWIN, PHILLIPS, LINDSAY,

AND STOLLINGS

[Introduced January 12, 2022; referred to  
the Committee on Health and Human Resources; and  
then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto nine new  
2 section designated, §16-42-1, §16-42-2, §16-42-3, §16-42-4, §16-42-5, §16-42-6, §16-42-  
3 7, §16-42-8, and §16-42-9; and to amend and reenact §24-6-6b of said code, all relating  
4 to creating of the Core Behavioral Health Crisis Services System; designating of crisis  
5 hotline centers; reimbursing treatment for crisis receiving and stabilization services;  
6 creating the Statewide 988 Trust Fund; providing a mechanism for funding the trust fund;  
7 establishing the uses of the fund; authorizing a statewide 988 fee; establishing the duties  
8 and powers of the secretary; providing for timelines for implementation; authorizing  
9 rulemaking, including emergency rules; and requiring annual reports.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 16. PUBLIC HEALTH.**

### **ARTICLE 42. CORE BEHAVIORAL HEALTH CRISIS SERVICES SYSTEM.**

#### **§16-42-1. Definitions.**

1 In this article the following words have the meanings indicated.

2 “988 Crisis Hotline Center” or “hotline center” means a state-identified center participating  
3 in the National Suicide Prevention Lifeline Network to respond to statewide or regional 988 calls.

4 “Commercial mobile radio service provider” or “CMRS provider” means cellular licensees,  
5 broadband personal communications services (PCS) licensees and specialized mobile radio  
6 (SMR) providers, as those terms are defined by the Federal Communications Commission, which  
7 offer on a post-paid or prepaid basis or via a combination of those two methods, real-time, two-  
8 way switched voice service that is interconnected with the public switched network and includes  
9 resellers of any commercial mobile radio service.

10 “Crisis receiving and stabilization services” means facilities providing short-term (under 24  
11 hours) with capacity for diagnosis, initial management, observation, crisis stabilization and follow  
12 up referral services to all persons in a home-like environment.

13 “Department” means the West Virginia Department of Health and Human Resources.

14 “Federal Communications Commission” or “FCC” means the federal governmental agency  
15 that regulates interstate and international communications by radio, television, wire, satellite, and  
16 cable in all 50 states, the District of Columbia and U.S. territories. An independent U.S.  
17 government agency overseen by Congress, the Commission is the United States’ primary  
18 authority for communications law, regulation, and technological innovation.

19 “LGTBQ+” is the is an acronym for lesbian, gay, bisexual, transgender and queer or  
20 questioning, terms used to describe a person’s sexual orientation or gender identity.

21 “National Suicide Prevention Lifeline” or “NSPL” means the national network of local crisis  
22 centers that provides free and confidential emotional support to people in suicidal crisis or  
23 emotional distress 24 hours a day, 7 days a week. Membership as an NSPL center requires  
24 nationally recognized certification which includes evidence-based training for all staff and  
25 volunteers in the management of calls.

26 “Peers” means individuals employed on the basis of their personal lived experience  
27 of mental illness and/or addiction and recovery who meet the state’s peer certification  
28 requirements where applicable.

29 “Secretary” means the Secretary of the West Virginia Department of Health and Human  
30 Resources.

31 “Substance Abuse and Mental Health Services Administration” means the agency within  
32 the U.S. Department of Health and Human Services that leads public health efforts to advance  
33 the behavioral health of the nation.

34 “988 Suicide Prevention and Mental Health Crisis Hotline” means the National Suicide  
35 Prevention Lifeline (NSPL) or its successor maintained by the Assistant Secretary for Mental  
36 Health and Substance Use under section 520E–3 of the Public Health Service Act.

37 “Veterans Crisis Line” or “VCL” means Veterans Crisis Line maintained by the Secretary  
38 of Veterans Affairs under section 1720F(h) of Title 38, United States Code.

**§16-42-2. Designation of crisis hotline centers.**

1        (a) Prior to July 1, 2022, the secretary shall designate a crisis hotline center or centers to  
2        provide crisis intervention services and crisis care coordination to individuals accessing the 988  
3        suicide prevention and behavioral health crisis hotline from any jurisdiction within the state 24  
4        hours a day, seven days a week:

5        (b) Designated hotline center(s) shall:

6        (1) Have an active agreement with the administrator of the National Suicide Prevention  
7        Lifeline (NSPL) for participation within the network.

8        (2) Meet NSPL requirements and best practices guidelines for operational and clinical  
9        standards.

10       (3) Utilize technology including chat and text that is interoperable between and across  
11       crisis and emergency response systems used throughout the state (911, EMS, other non-  
12       behavioral health crisis services, etc.).

13       (4) Have the authority to deploy crisis and outgoing services, and coordinate access to  
14       crisis receiving and stabilization services or other local resources as appropriate and according  
15       to guidelines and best practices established by the NSPL.

16       (5) Coordinate access to crisis receiving and stabilization services for individuals  
17       accessing the 988 suicide prevention and behavioral health crisis hotline through appropriate  
18       information sharing regarding availability of services.

19       (6) Provide follow-up services to individuals accessing the 988 suicide prevention and  
20       behavioral health crisis hotline consistent with guidance and policies established by the NSPL.

21       (c) The department shall work in concert with the NSPL and VCL networks for the  
22       purposes of ensuring consistency of public messaging about 988 services.

23       (d) Designated hotline center(s) shall meet the requirements set forth by NSPL for serving  
24       high risk and specialized populations as identified by the Substance Abuse and Mental Health  
25       Services Administration, including training requirements and policies for transferring such callers

to an appropriate specialized center or subnetworks within or external to the NSPL network. This shall include LGBTQ individuals, as well as those with co-occurring substance use, American Indian and Alaskan natives and other relevant special populations.

**§16-42-3. Reimbursement of treatment for crisis receiving and stabilization services.**

(a) Crisis receiving and stabilization services as related to the call shall be reimbursed by the department if the individual for whom services were provided meets the definition of an uninsured person or if the crisis stabilization service is not a covered service by the individual's health coverage.

(b) The department's Bureau for Medical Services shall work with the entity responsible for the development of crisis receiving and stabilization services to explore options for appropriate coding of and payment for crisis management services.

(c) The department shall determine how payment will be made to the provider of service.

**§16-42-4. Statewide 988 Trust Fund.**

(a) The Statewide 988 Trust Fund is established as a special fund in the State Treasury for the purposes of creating and maintaining a statewide 988 suicide prevention and mental health crisis system pursuant to the National Suicide Hotline Designation Act of 2020, the Federal Communication Commission's rules adopted July 16, 2020, and national guidelines for crisis care. Money in the fund is appropriated as set forth in subsection (b) of this section.

(b) The Statewide 988 Trust Fund consists of:

(1) The statewide 988 fee assessed on users pursuant §16-42-5 of this code and collected pursuant to §24-6-6b of this code;

(2) Appropriations made by the State Legislature;

(3) Grants and gifts intended for deposit in the fund;

(4) Interest, premiums, gains, or other earnings on the fund; and

(5) Money from any other source deposited in or transferred to the fund.

(c) Money in the fund is allocated as follows:

14 (1) Ensuring the efficient and effective routing of calls made to the 988 suicide prevention  
15 and behavioral health crisis hotline to the designated hotline center(s) including staffing and  
16 technological infrastructure enhancements necessary to achieve operational and clinical  
17 standards and best practices set forth by NSPL;

18 (2) Personnel and the provision of acute behavioral health, crisis outreach and stabilization  
19 services by directly responding to the 988 national suicide prevention and behavioral health crisis  
20 hotline;

21 (3) Data collection and reporting, evaluations and related quality improvement activities  
22 as required by the 988 administrator; and

23 (4) Administration, oversight and evaluation of the fund.

24 (d) Any balance, including accrued interest or other earnings in the fund at the end of any  
25 fiscal year do not revert to the General Revenue Fund, but shall remain in the fund. Expenditures  
26 may be made from the fund only for the purposes set forth in this section and in accordance with  
27 the provisions of article three, chapter twelve of this code and upon fulfillment of the provisions of  
28 article two, chapter eleven-b of this code.

**§16-42-5. Statewide 988 fee.**

1 (a) In compliance with the National Suicide Hotline Designation Act of 2020, and pursuant  
2 to §24-6-6b of this code, there shall be a monthly statewide 988 fee on each resident that is a  
3 subscriber of commercial mobile and/or IP-enabled voice services at a rate that provides for the  
4 robust creation, operation, and maintenance of a statewide 988 suicide prevention and behavioral  
5 health crisis system and the continuum of services provided pursuant to national guidelines for  
6 crisis services.

7 (b) The revenue generated by a 988 fee collected pursuant to §24-6-6b of this code shall  
8 be sequestered in Statewide 988 Trust Fund as created by §16-42-4 of this code to be obligated  
9 or expended only in support of 988 services, or enhancements of such services as provided in  
10 §16-42-4 of this code.

**§16-42-6. Duties and powers of the secretary.**

1        The secretary at his or her discretion may hire employees, fix compensation, define duties,  
2 grant such individuals appropriate authority to carry out the purposes of this article, make and  
3 sign any agreements and may do and perform any acts necessary to accomplish the planning  
4 required for implementation or ongoing oversight of this article in coordination with designated  
5 hotline center(s), 9-1-1 centers, the state mental health authority and the National Suicide  
6 Prevention Lifeline.

**§16-42-7. Timeframe for implementation.**

1        The secretary shall establish timeframes to accomplish the provisions of this article  
2 consistent with the timeframes required by the National Suicide Hotline Designation Act of 2020  
3 and the Federal Communication Commission's rules adopted on July 16, 2020.

**§16-42-8. Rule-making.**

1        (a) The secretary may propose rules for promulgation in accordance with §29A-3-1 et seq.  
2 of this code to implement the provisions of this article, including, but not limited to, allowing  
3 appropriate information sharing and communication between and across crisis and emergency  
4 response systems for the purpose of real-time crisis care coordination, deployment of crisis and  
5 outgoing services and linked, flexible services specific to crisis response.

6        (b) The Legislature finds that for the purposes of §29A-3-15 of this code, an emergency  
7 exists requiring the promulgation of emergency rules to preserve the public peace, health, safety  
8 or welfare and to prevent substantial harm to the public interest.

**§16-42-9. Annual Report.**

1        The secretary shall submit an annual report to the Governor, Legislature, the Substance  
2 Abuse and Mental Health Services Administration, and the Federal Communications Commission  
3 that includes:

4        (1) The usage of the 988 suicide prevention and behavioral health crisis hotline and the  
5 services;

(2) Statewide 988 Trust Fund deposits and expenditures; and

(3) Revenue generated by the 988 fee authorized by §24-6-6b of this code.

## CHAPTER 24. PUBLIC SERVICE COMMISSION.

### ARTICLE 6. LOCAL EMERGENCY TELEPHONE SYSTEM.

#### **§24-6-6b. Wireless enhanced 911 fee; public safety wireless fee; wireless tower fee; and 988 fee.**

(a) All CMRS providers as defined in §24-6-2 of this code shall, on a monthly basis or otherwise for good cause and as directed by order of the Public Service Commission, collect from each of their in-state two-way service subscribers a wireless enhanced 911 fee, a public safety fee, a 988 fee, and a wireless tower fee. As used in this section “in-state two-way service subscriber” has the same meaning as that set forth in the rules of the Public Service Commission. The CMRS providers shall, on a monthly basis, after retaining a billing fee of three percent of the sum of the wireless enhanced 911 fee, the public safety fee, a 988 fee, and the wireless tower fee, send moneys collected from the wireless enhanced 911 fee, the public safety fee, a 988 fee, and the wireless tower fee to the Public Service Commission.

(b) The wireless enhanced 911 fee is \$3.47 per month for each valid in-state two-way service subscriber, as that term is defined by Public Service Commission rules.

Beginning in the year 2021, and every two years thereafter, the Public Service Commission shall conduct a survey of the enhanced 911 fees imposed by counties and shall recalculate the wireless enhanced 911 fee so that increases or decreases by the same percentage as the change in the weighted average rounded to the nearest penny, as of March 1 of the respecification year, of all of the enhanced 911 fees imposed by the counties which have adopted an enhanced 911 ordinance: *Provided*, That the wireless enhanced 911 fee may never be increased by more than 25 percent of its value at the beginning of the respecification year: *Provided, however*, That the fee may never be less than the amount set in subsection (b) of



20 this section.

21 (c) The Public Service Commission shall, on a quarterly and approximately evenly  
22 staggered basis, disburse wireless enhanced 911 fee revenue in the following manner:

23 (1) Each county that does not have a 911 ordinance in effect as of the original effective  
24 date of this section in the year 1997, or has enacted a 911 ordinance within the five years prior to  
25 the original effective date of this section in the year 1997, shall receive eight and one-half tenths  
26 of one percent of the fee revenues received by the Public Service Commission: *Provided, That*  
27 after the effective date of this section, in the year 2005, when two or more counties consolidate  
28 into one county to provide government services, the consolidated county shall receive one percent  
29 of the fee revenues received by the Public Service Commission for itself and for each county  
30 merged into the consolidated county. Each county shall receive eight and one-half tenths of one  
31 percent of the remainder of the wireless enhanced 911 fee revenues received by the Public  
32 Service Commission: *Provided, however, That* after the effective date of this section, in the year  
33 2005, when two or more counties consolidate into one county to provide government services,  
34 the consolidated county shall receive one percent of the fee revenues received by the Public  
35 Service Commission for itself and for each county merged into the consolidated county. Then,  
36 from any moneys remaining, each county shall receive a pro rata portion of that remainder based  
37 on that county's population as determined in the most recent decennial census as a percentage  
38 of the state total population. The Public Service Commission shall recalculate the county  
39 disbursement percentages on a yearly basis, with the changes effective on July 1, and using data  
40 as of the preceding March 1. The public utilities which normally provide local exchange  
41 telecommunications service by means of lines, wires, cables, optical fibers, or by other means  
42 extended to subscriber premises shall supply the data to the Public Service Commission on a  
43 county specific basis no later than June 1 of each year;

44 (2) Counties which have an enhanced 911 ordinance in effect shall receive their share of  
45 the wireless enhanced 911 fee revenue for use in the same manner as the enhanced 911 fee

revenues received by those counties pursuant to their enhanced 911 ordinances;

(3) The Public Service Commission shall deposit the wireless enhanced 911 fee revenue for each county which does not have an enhanced 911 ordinance in effect into an escrow account which it has established for that county. Any county with an escrow account may, immediately upon adopting an enhanced 911 ordinance, receive the moneys which have accumulated in the escrow account for use as specified in subdivision (2) of this subsection: *Provided*, That a county that adopts a 911 ordinance after the original effective date of this section in the year 1997, or has adopted a 911 ordinance within five years of the original effective date of this section in the year 1997, shall continue to receive one percent of the total 911 fee revenue for a period of five years following the adoption of the ordinance. Thereafter, each county shall receive that county's eight and one-half tenths of one percent of the remaining fee revenue, plus that county's additional pro rata portion of the fee revenues then remaining, based on that county's population as determined in the most recent decennial census as a percentage of the state total population: *Provided, however*, That every five years from the year 1997, all fee revenue residing in escrow accounts shall be disbursed on the pro rata basis specified in subdivision (1) of this subsection, except that data for counties without enhanced 911 ordinances in effect shall be omitted from the calculation and all escrow accounts shall begin again with a zero balance. From any funds distributed to a county pursuant to this section, a total of three percent shall be set aside in a special fund to be used exclusively for the purchase of equipment that will provide information regarding the x and y coordinates of persons who call an emergency telephone system through a commercial mobile radio service: *Provided further*, That upon purchase of the necessary equipment, the special fund shall be dissolved and any surplus shall be used for general operation of the emergency telephone system as may otherwise be provided by law.

(d) Beginning July 1, 2020, CMRS providers shall collect the public safety fee from each in-state two-way service subscriber. The public safety fee shall be 29 cents per month and will be shown as a separate fee on the subscriber's bill. On a monthly basis, the Public Service

Commission will distribute 10 cents of the public safety fee to the West Virginia State Police to be used for equipment upgrades for improving and integrating their communication efforts with those of the enhanced 911 systems, and the Public Service Commission will deposit 19 cents of the public safety fee in a special fund established by the Division of Homeland Security and Emergency Management to be used solely for the construction, maintenance, and upgrades of the West Virginia Interoperable Radio Project and any other costs associated with establishing and maintaining the infrastructure of the system. Any funds remaining in this fund at the end of the fiscal year shall automatically be reappropriated for the following year.

(e) Beginning July 1, 2020, CMRS providers shall collect the wireless tower fee from each in-state two-way service subscriber. The wireless tower fee shall be eight cents per month and will be shown as a separate fee on the subscriber's bill. On a monthly basis, the commission shall distribute the wireless tower fee to a fund administered by the Public Service Commission, entitled the Wireless Tower Access Assistance Fund, to subsidize the construction of wireless towers. The moneys shall be expended in accordance with an enhanced 911 wireless tower access matching grant order adopted by the Public Service Commission. The commission order shall contain terms and conditions designed to provide financial assistance loans or grants to state agencies, political subdivisions of the state, and wireless telephone carriers for the acquisition, equipping, and construction of new wireless towers, which would not be available otherwise due to marginal financial viability of the applicable tower coverage area: *Provided*, That the grants shall be allocated among potential sites based on application from county commissions demonstrating the need for enhanced 911 wireless coverage in specific areas of this state. Any tower constructed with assistance from the fund created by this subsection shall be available for use by emergency services, fire departments, and law-enforcement agencies' communications equipment, so long as that use does not interfere with the carriers' wireless signal.

(f) Beginning July 1, 2022, CMRS providers shall collect the 988 fee from each in-state two-way service subscriber. The 988 fee shall be 11 cents per month and will be shown as a

98 separate fee on the subscriber's bill. On a monthly basis, the Public Service Commission will  
99 distribute amounts collected to in the Statewide 988 Trust Fund established pursuant to §16-42-  
100 4 of this code and shall be used pursuant to §16-42-5 of this code. Any funds remaining in this  
101 fund at the end of the fiscal year shall automatically be reappropriated for the following year.

102 ~~(f)~~ (g) CMRS providers have the same rights and responsibilities as other telephone  
103 service suppliers in dealing with the failure by an in-state two-way service subscriber to timely pay  
104 the wireless enhanced 911 fee, the public safety fee, a 988 fee, and the wireless tower fee.

105 ~~(g)~~ (h) Notwithstanding the provisions of §24-6-1a of this code, for the purposes of this  
106 section, the term "county" means one of the counties provided in §1-1-1 of this code.

107 ~~(h)~~ (i) Notwithstanding anything to the contrary in this code, prepaid wireless calling  
108 service is not subject to the wireless enhanced 911 fee, the public safety fee, a 988 fee, and the  
109 wireless tower fee.

110 ~~(i)~~ (j) The Public Service Commission shall promulgate rules in accordance with §29A-3-  
111 1 *et seq.* of this code to effectuate the provisions of this section. The Public Service Commission  
112 may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code.

NOTE: The purpose of this bill is to improve the quality and access to behavioral health crisis services; reducing stigma surrounding suicide and mental health and substance use disorders and saving lives; and for the purpose of complying with the National Suicide Hotline Designation Act of 2020 and the Federal Communication Commission's rules adopted July 16, 2020 to assure that all citizens and visitors of the State of West Virginia receive a consistent level of 988 and crisis behavioral health services no matter where they live, work, or travel in the state.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.